

Article - Courts and Judicial Proceedings

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§3-823.

(a) In this section, “out-of-home placement” has the meaning stated in § 5-501 of the Family Law Article.

(b) (1) The court shall hold a permanency planning hearing to determine the permanency plan for a child:

(i) No later than 11 months after a child committed under § 3-819 of this subtitle or continued in a voluntary placement under § 3-819.1(b) of this subtitle enters an out-of-home placement; or

(ii) Within 30 days after the court finds that reasonable efforts to reunify a child with the child’s parent or guardian are not required based on a finding that a circumstance enumerated in § 3-812 of this subtitle has occurred.

(2) For purposes of this section, a child shall be considered to have entered an out-of-home placement 30 days after the child is placed into an out-of-home placement.

(3) If all parties agree, a permanency planning hearing may be held on the same day as the reasonable efforts hearing.

(c) (1) On the written request of a party or on its own motion, the court may schedule a hearing at any earlier time to determine a permanency plan or to review the implementation of a permanency plan for any child committed under § 3-819 of this subtitle.

(2) A written request for review shall state the reason for the request and each issue to be raised.

(d) At least 10 days before the permanency planning hearing, the local department shall provide all parties and the court with a copy of the local department’s permanency plan for the child.

(e) (1) At a permanency planning hearing, the court shall:

(i) Determine the child’s permanency plan, which, to the extent consistent with the best interests of the child, may be, in descending order of priority:

1. Reunification with the parent or guardian;
2. Placement with a relative for:
 - A. Adoption; or
 - B. Custody and guardianship under § 3–819.2 of this subtitle;
3. Adoption by a nonrelative;
4. Custody and guardianship by a nonrelative under § 3–819.2 of this subtitle; or

5. For a child at least 16 years old, another planned permanent living arrangement that:

A. Addresses the individualized needs of the child, including the child’s educational plan, emotional stability, physical placement, and socialization needs; and

B. Includes goals that promote the continuity of relations with individuals who will fill a lasting and significant role in the child’s life; and

(ii) For a child at least 14 years old, determine the services needed to assist the child to make the transition from placement to successful adulthood.

(2) In determining the child’s permanency plan, the court shall consider the factors specified in § 5–525(f)(1) of the Family Law Article.

(f) The court may not order a child to be continued in a placement under subsection (e)(1)(i)5 of this section unless the court finds that the person or agency to which the child is committed has documented a compelling reason for determining that it would not be in the best interest of the child to:

- (1) Return home;
- (2) Be referred for termination of parental rights; or
- (3) Be placed for adoption or guardianship with a specified and appropriate relative or legal guardian willing to care for the child.

(g) In the case of a child for whom the court determines that the plan should be changed to adoption under subsection (e)(1)(i)3 of this section, the court shall:

(1) Order the local department to file a petition for guardianship in accordance with Title 5, Subtitle 3 of the Family Law Article within 30 days or, if the local department does not support the plan, within 60 days; and

(2) Schedule a TPR hearing instead of the next 6-month review hearing.

(h) (1) (i) Except as provided in subparagraphs (ii) and (iii) of this paragraph, the court shall conduct a hearing to review the permanency plan at least every 6 months until commitment is rescinded or a voluntary placement is terminated.

(ii) The court shall conduct a review hearing every 12 months after the court determines that the child shall be continued in out-of-home placement with a specific caregiver who agrees to care for the child on a permanent basis.

(iii) 1. Unless the court finds good cause, a case shall be terminated after the court grants custody and guardianship of the child to a relative or other individual.

2. If the court finds good cause not to terminate a case, the court shall conduct a review hearing every 12 months until the case is terminated.

3. The court may not conclude a review hearing under subparagraph 2 of this subparagraph unless the court has seen the child in person.

(2) At the review hearing, the court shall:

(i) Determine the continuing necessity for and appropriateness of the commitment;

(ii) Determine and document in its order whether reasonable efforts have been made to finalize the permanency plan that is in effect;

(iii) Determine the extent of progress that has been made toward alleviating or mitigating the causes necessitating commitment;

(iv) Project a reasonable date by which a child in placement may be returned home, placed in a preadoptive home, or placed under a legal guardianship;

(v) Evaluate the safety of the child and take necessary measures to protect the child;

(vi) Change the permanency plan if a change in the permanency plan would be in the child's best interest; and

(vii) For a child with a developmental disability, direct the provision of services to obtain ongoing care, if any, needed after the court's jurisdiction ends.

(3) (i) For a child placed in a qualified residential treatment program, the court shall:

1. Determine whether the ongoing needs assessments of the child support continued placement of the child in a qualified residential treatment program;

2. Determine whether placement in a qualified residential treatment program provides the most effective and appropriate level of care for the child in the least restrictive environment; and

3. Determine whether the continued placement in a qualified residential treatment program is consistent with the short-term and long-term goals for the child as specified in the permanency plan.

(ii) The court shall state, in writing, the reasons for its decision to approve or disapprove the continued placement of a child in a qualified residential treatment program under this paragraph.

(4) Every reasonable effort shall be made to effectuate a permanent placement for the child within 24 months after the date of initial placement.

(i) At a review hearing under this section, the court shall consider any written report of a local out-of-home care review board required under § 5-545 of the Family Law Article.

(j) (1) At least every 12 months at a hearing under this section, the court shall consult on the record with the child in an age-appropriate manner to obtain the child's views on permanency.

(2) (i) If, after a hearing or with the agreement of all parties, the court determines that the child is medically fragile and that it is detrimental to the child's physical or mental health to be transported to the courthouse, the court may, subject to subparagraph (ii) of this paragraph:

1. Visit the child at the child's placement and use appropriate technology to document the consultation for the record; or

2. Use video conferencing to consult with the child on the record during the hearing.

(ii) If the court visits the child at the child's placement under subparagraph (i)1 of this paragraph or uses video conferencing under subparagraph (i)2 of this paragraph, the court shall give each party notice and an opportunity to attend the visit or the video conferencing, unless the court determines that it is not in the best interest of the child for a party to attend the visit or the video conferencing.

(3) Subject to the provisions of paragraph (2)(ii) of this subsection, if the child's placement is outside the State and, after a hearing or with the agreement of all parties, the court determines that it is not in the best interest of the child to be transported to the court, the court may use video conferencing to consult with the child on the record during the hearing.

(k) An order directing the provision of services to a child under subsection (h)(2)(vii) of this section is effective until:

(1) The child is transitioned to adult guardianship care if adult guardianship is necessary and there is no less restrictive alternative that meets the needs of the child; and

(2) (i) The Maryland Department of Health enters into an agreement to provide or obtain the services ordered by the court; or

(ii) If the Maryland Department of Health challenges the necessity of the services ordered by the court, the conclusion of any administrative or judicial review proceeding regarding the challenge.

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